



**Utah Supreme Court's
Advisory Committee on the Rules of Juvenile Procedure**

Approved Meeting Minutes

David W. Fureigh, Chair

Location: Webex Meeting:
<https://utcourts.webex.com/utcourts/j.php?MTID=m1a3668e9b565aa17177801b9eafdec1e>

Date: April 1, 2022

Time: 12:00 pm - 2:00 pm

<u>Attendees:</u> David Fureigh, Chair Arek Butler Judge Paul Dame Michelle Jeffs Judge Debra Jensen Matthew Johnson Mikelle Ostler William Russell Chris Yanelli Janette White Carol Verdoia, Emeritus Member	<u>Excused Members:</u> Kristin Fadel Jordan Putnam Sophia Moore
	<u>Guests:</u> Chris Williams, Office of Legislative Research and General Counsel Judge Steven Beck
<u>Staff:</u> Bridget Koza Kiley Tilby, Recording Secretary Meg Sternitzky, Juvenile Court Law Clerk Savannah Schoon, Juvenile Court Law Clerk	

1. Welcome and approval of the March 4, 2022 Meeting minutes: (David Fureigh)

David Fureigh welcomed everyone to the meeting and asked for approval of the March 4, 2022 minutes.

Judge Debra Jensen moved to approve the March 4, 2022 minutes. William Russell seconded the motion, and it passed unanimously.

David introduced Kiley Tilby as the new recording secretary. Ms. Tilby will take minutes and assist in the preparation of the agendas. David announced Bridget Koza had accepted a new position and will be leaving the courts.

As a preliminary matter, David informed the committee that Rule 60 received one dissenting vote from the Supreme Court regarding a motion to go out for 45-day public comment but the motion passed. David received a request from the Supreme Court to contact the ACLU and Planned Parenthood and ask them if they would like to comment again while it is out for comment. He reached out to them and let them know they could e-mail him, send a letter, or submit comment through the website.

2. Discussion – Rule 25A. Withdrawal of Plea: (David Fureigh)

Judge Steven Beck left a comment on the proposed repeal of Rule 25A and was invited by Judge Dame to the meeting to address his concerns to the committee. Judge Beck had previously attended a Judicial Council's committee meeting. During that meeting, the Judicial Council's position was that if there are procedures in legislation, they should be taken out of legislation and left in the rules. Judge Beck expressed his concern of removing a rule that contains procedure as the legislature could repeal that law by simple majority. This would subvert the constitutional requirement of 2/3 majority from both houses to amend a Rule of Juvenile Procedure. Judge Beck indicated his position that if a rule is procedural, it should remain in the Rules of Juvenile Procedure and not stricken in favor of legislation.

David Fureigh indicated this was a big discussion with the first juvenile code recodification because there were several substantive issues in the rules that the committee believed belonged in the statute but there was nothing in the statute addressing it. This led to the committee putting some of the substantive stuff in the rules because it was not otherwise addressed in the statute.

Carol Verdoia stated that issue as part of the first juvenile code recodification was being tracked closely by Jacqueline Carlton, Office of Legislative Research and

General Counsel. Carol's interpretation was that the intent was to ensure the procedural aspects stay in the rules even if there is also a statutory provision.

Judge Dame expressed the same concerns Judge Beck has as far as the Supreme Court having exclusive authority to make procedural rules. Judge Dame indicated he has concerns with repealing Rule 25A because it is a combination of substantive and procedural and believes Rule 25A should be left as-is.

Carol Verdoia indicated if the statute is repealed, the Supreme Court could do an emergency implementation of a rule, but it would still have to go through the committee and the comment period. This is a lengthy process and would take some time to get the rule back in place.

The committee agreed to put Rules 25 and 25A on the May 6, 2022 agenda to continue the discussion.

3. Discussion – Rule 12: Admission to shelter care; Rule 13: Shelter hearings; and Rule 14: Reception of Referral; Preliminary Determination: (Matthew Johnson & Janette White)

Matthew Johnson discussed with the committee that he and Janette White went through Juvenile Rules 12, 13, and 14 to update the statutory citations to reflect the changes in the second juvenile code recodification (HB 248: Juvenile Amendments (2022)).

David proposed to the committee whether Rule 12 was necessary if the rule was merely citing to the statute. Matthew Johnson stated he would rather leave the rule for those attorneys who did not primarily practice in Juvenile Court. Janette White indicated she did not know if the rule was necessary as the statute is cited in the petitions in child welfare proceedings. Arek Butler would like to leave the rule.

Bridget Koza wanted to ensure the proposed statutory citations were updated correctly. Bridget will forward the chart showing the old statutory citation and the new one from the second juvenile code recodification from the Office of Legislative Research and General Counsel to all committee members.

The committee will continue discussing Rule 12, 13 and 14 at the next committee meeting on May 6, 2022.

4. Discussion – Rule 13: Shelter hearings, Rule 35: Pre-trial procedures & SB 108 Indigent Defense Amendments (2022): (All)

SB 108: Indigent Defense Amendments (2022) - Bridget Koza raised the question as to whether there needed to be changes to Juvenile Rule 13 based on S.B. 108 (lines 86 and 87) regarding the court informing parties of their right to counsel. David Fureigh commented that Rule 35 and the Indigent Defense Act already outlines the right to counsel. Judge Dame does not believe it is necessary to add anything additional to the rules because the statute already requires the court to advise parties of their right to counsel. Judge Jensen concurs and indicates all judges are aware they must advise the parties of their right to counsel at shelter hearings.

5. Old business/new business: (All)

Carol Verdoia outlined the committee may want to look at SB 161: Child Welfare Appeals Amendments (2022) and look at possibly amending Juvenile Rules 52 and 53. Carol indicated there were changes made about a parent's representation on appeal because of new processes with appointing the qualified appellate counsel. The process for appointing qualified appellate counsel is still being worked out. For example, a trial attorney attempted to withdraw as counsel before the appointment of qualified appellate counsel. Carol suggested the committee may want to outline in the rules the procedure for that process.

Mikelle Ostler and Bridget Koza discussed SB 85: Protective Order and Stalking Injunction Expungement (2022) regarding protective order and stalking injunction expungements. Bridget indicated she did not know whether the committee needed to reference anything in Juvenile Rule 37 about expunging child protective orders. Juvenile Rule 56 deals with expungement, but that is only regarding juvenile records. Jordan Putnam was assigned to review SB 85 to see if any changes need to be made to the Juvenile Rules.

Both bills and rules will be placed on the May 6, 2022 agenda.

The meeting adjourned at 1:30 p.m. The next meeting will be held on May 6, 2022 at 12:00 p.m. via Webex.